

### REMARKS

Claims 1-15 are pending in the present application.

#### Restriction Requirement:

The Examiner has required restriction between Groups I – III as set forth on page 2 of the Office Action.

Applicants elect with traverse, Group I, Claims 1-8, drawn to a fusion protein having particular features.

Unity of invention exists when there is a technical relationship among the claimed inventions involving one or more of the same or corresponding special technical features. Although lack of unity of invention should certainly be raised in clear cases, it should neither be raised nor maintained on the basis of a narrow, literal or academic approach. There should be a broad, practical consideration of the degree of interdependence of the alternatives presented. If, there is a single general inventive concept that appears novel and involves inventive step, then there is unity of invention and an objection of lack of unity does not arise. For determining the action to be taken by the examiner, rigid rules cannot be given and each case should be considered on its merits, the benefit of any doubt being given to the applicant, *see* MPEP § 1850 II.

In the present instance, Group I, Group II, and Group III are closely related. Group I claims are directed to fusion proteins having the acknowledged special technical features, *see Office Action*, page 2. Group II claims are directed to the fusion proteins and genes, vectors, and transformants for producing the recited fusion proteins. Group III claims are directed to the fusion proteins and enzyme electrodes comprising the recited fusion proteins. Accordingly, Applicants submit that the general inventive concept of the fusion proteins described in Group I should be considered with the genes, vectors, and transformants for producing such proteins and the enzyme electrodes comprising the recited proteins. As such, Applicants request rejoinder of Groups I-III.

As noted by the Examiner, the present Office Action includes a restriction between a product and its process of use. When Applicants elect claims directed to the product, and a product is subsequently found allowable, withdrawn process claims that depend from or

otherwise include all the limitations of the allowable product claims will be rejoined in accordance with the provisions of M.P.E.P. § 821.04. Such process claims that depend from or otherwise include all the limitations of the patentable product are entered as a matter of right, if the amendment is presented prior to final rejection or allowance, whichever is earlier. Furthermore, in the event of rejoinder, Applicants understand that the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims must be fully examined for patentability according to the provisions of 37 C.F.R. § 1.104.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Linda T. Parker, PhD, Registration No. 46,046, at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

- ☒ Attached is a Petition for Extension of Time.
- ☒ Attached hereto is the fee transmittal listing the required fees.

If necessary, the Director is hereby authorized in this, concurrent, and future replies to charge any fees required during the pendency of the above-identified application or credit any overpayment to Deposit Account No. 02-2448.

Dated:

APR 26 2010

Respectfully submitted,

By *Linda T. Parker* *reg NO 46,046*  
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